

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) P10679/1020P10679									
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>May 4, 2009</u> Signature <u>/Spencer A. Bartl/</u> Typed or printed name <u>Spencer A. Bartl</u>	Application Number 09/823,459		Filed March 30, 2001								
	First Named Inventor Steven Adams										
	Art Unit 2416	Examiner Toan D. Nguyen									
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; text-align: right; vertical-align: bottom; padding-bottom: 10px;"><u>/John F. Kacvinsky/</u> Signature</td></tr><tr><td style="vertical-align: top; padding-bottom: 10px;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="text-align: right; vertical-align: bottom; padding-bottom: 10px;"><u>John F. Kacvinsky</u> Typed or printed name</td></tr><tr><td style="vertical-align: top; padding-bottom: 10px;"><input checked="" type="checkbox"/> attorney or agent of record. 40,040 Registration number _____</td><td style="text-align: right; vertical-align: bottom; padding-bottom: 10px;"><u>724-933-9338</u> Telephone number</td></tr><tr><td style="vertical-align: top; padding-bottom: 10px;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="text-align: right; vertical-align: bottom; padding-bottom: 10px;"><u>May 4, 2009</u> Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	<u>/John F. Kacvinsky/</u> Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>John F. Kacvinsky</u> Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. 40,040 Registration number _____	<u>724-933-9338</u> Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>May 4, 2009</u> Date
<input type="checkbox"/> applicant/inventor.	<u>/John F. Kacvinsky/</u> Signature										
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<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.											

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Steven Adams et al.	Examiner:	Toan D. Nguyen
Serial No.:	09/823,459	Group Art Unit:	2416
Filed:	March 30, 2001	Docket No.:	1020.P10679
Title:	METHOD AND APPARATUS TO PERFORM NETWORK ROUTING		

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicants have carefully reviewed and considered the Final Office Action mailed on December 4, 2008 and the cited references. In response to the Final Office Action, Applicants respectfully request review prior to the filing of an Appeal Brief.

Claim Rejections – 35 USC §103(a)

Claims 1-3 and 5-34 are pending in the present application.

Claims 1-3, 5-17, 25-26, and 29-34 were rejected under 35 USC § 102(e) as being anticipated by U.S. 7,320,034 (Fichou).

Claims 18-24 and 27-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fichou and further in view of US 7,046,680 (McDysan).

Applicants respectfully traverse these rejections.

REMARKS

Summary

Claims 1-3 and 5-34 stand in this application. Favorable reconsideration and allowance of the standing claims are respectfully requested.

35 U.S.C. § 102

Applicants submit that Fichou fails to teach or fairly suggest the features recited in independent claims 1-3, 5-17, 25-26, and 29-34.

For example, independent Claim 1 recites:

1. (Previously Presented) A method to perform routing in a network, comprising:
 - receiving a packet to be routed to a destination at an intermediate network node configured to perform basic routing services for said packet;
 - determining whether said packet requires advanced routing services to route said packet to said destination which are not included in said basic routing services;
 - sending said packet from said intermediate network node to a hosted advanced routing server configured to perform said advanced routing services; and
 - routing said packet to said destination from at least one of said intermediate node and said advanced routing server.

As set forth at page 2 of the Office Action mailed December 4, 2008 (“Office Action”), Fichou discloses at Figure 1 (Reservation Server 26) and Figure 6, Column 5: Line 65 to Column 6: Line 21, “ingress edge node received the packet and checked whether the flow which the received packet belongs is a known flow (non-reserved flows) or a new flow (reserved flows from the reservation server 26 in figure 1) before transmit to the destination workstation (i.e., destination workstation 32 in figure 1)” as “a packet to be routed to a destination” as recited in claim 1. Applicant respectfully traverses this assertion.

At the given cite, Fichou describes receiving a packet at an ingress edge node 20. The ingress edge node 20 performs a lookup in its local port forwarding database 98 to check whether the packet belongs to a known flow or a new flow. If the packet belongs to a known flow, it is processed, modified and forwarded by the ingress edge node 20. If the packet belongs to a new

flow, the local port forwarding database 98 is modified, and the packet is processed, modified and transmitted by the ingress edge node 20. Fichou, Col. 5: Line 65 to Col. 6: Line 21.

Claim 1 defines over Fichou because Fichou processes a packet entirely by the ingress edge node 20, regardless of whether the packet belongs to a known flow or a new flow. By way of contrast, the claimed subject matter discloses an intermediate network node that determines whether a packet requires advanced routing services to route the packet to a destination. If so, the packet is forwarded to an advanced router server prior to being sent to the destination so that the required advanced routing services may be performed. Consequently, Fichou fails to disclose at least “sending said packet from said intermediate network node to a hosted advanced routing server configured to perform said advanced routing services; and routing said packet to said destination from at least one of said intermediate node and said advanced routing server” as recited in claim 1.

The Office Action further states that Fichou discloses at Column 3, Lines 10-18, “[r]eservation server 26 (said advanced routing server means) may be access by any workstation (from at least one of said intermediate node means) such as the source workstation 10 through several intermediary nodes such as backbone nodes 28 and 30” as “routing said packet to said destination from at least one of said intermediate node and said advanced routing server” as recited in claim 1. Applicant respectfully traverses this assertion.

At the given cite, Fichou discloses a source workstation 10, destination workstation 32, default router 16, a reservation server 26 and backbone nodes 28, 30. The data transmission system of Fichou allows the source workstation 10 to reserve a “virtual connection” using the reservation server 26 so that packets may be sent at a later time over the “virtual connection” comprising backbone nodes 28, 30. Before a “virtual connection” is established, the source workstation 10 must send a reservation request to the reservation server 26. The source workstation 10 may either send a reservation request directly to the reservation server 26, or may send a reservation request to the default router 16, which then forwards the reservation request to the reservation server 26. Fichou, Col. 3: Lines 6-34.

Claim 1 defines over Fichou because Fichou never sends the reservation request to the destination workstation 32. Although the reservation request may be sent to the default router 16 or the reservation server 26, it is not intended for the destination workstation 32. Rather, the reservation request is processed completely within the reservation server 26. Whether or not the

reservation server 26 may be accessed by the source workstation 10 is completely irrelevant as to whether the reservation server 26 routes a packet to the destination workstation 32.

Consequently, Fichou fails to disclose at least “routing said packet to said destination from at least one of said intermediate node and said advanced routing server” as disclosed by claim 1.

Consequently, Fichou fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 2 and 3, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Fichou.

Claims 5, 8, 12, 16, 18, 25 and 29 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 5, 8, 12, 16, 25 and 29 are not anticipated and are patentable over Fichou for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 5, 8, 12, 16, 25 and 29. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to all claims that depend from claims 5, 8, 12, 16, 25 and 29, and therefore contain additional features that further distinguish these claims from Fichou.

35 U.S.C. § 103

Claims 18, 21, 23 and 27 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 18, 21, 23 and 27 are not obvious and are patentable over the cited references for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 18, 21, 23 and 27. Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to all claims that depend from claims 18, 21, 23 and 27, and therefore contain additional features that further distinguish these claims from the cited references.

Conclusion

For at least the above reasons, Applicant submits that claims 1-3 and 5-34 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited

REQUEST FOR RECONSIDERATION

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novel features provide new and unexpected results not recognized by the cited references.

Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Respectfully submitted,

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